

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW HAMPSHIRE

Katherine Mendola

v.

Civil No. 11-cv-338-PB

Joanne Fortier, Warden,  
New Hampshire State Prison  
for Women

**O R D E R**

On February 2, 2012, the court issued an order (doc. no. 9) finding that the petition, as filed under 28 U.S.C. § 2254, was a "mixed petition," as petitioner, Mendola, had failed to demonstrate exhaustion of all of the claims raised. Because a mixed petition must be dismissed, see Rhines v. Weber, 544 U.S. 269, 273 (2005), the court provided Mendola with the opportunity, within 30 days, to amend her petition (doc. no. 1) to demonstrate that all of the claims had been exhausted, and alerted her to the option of notifying this court unequivocally that she intends to drop any unexhausted claims from the petition, with the understanding that by doing so, she risks losing the opportunity to assert those claims in a future habeas petition. The court further granted Mendola leave to request a stay in this matter, within that time period, to enable her to return to the state courts to complete exhaustion of any

unexhausted claims without jeopardizing the timeliness of her petition. Mendola was warned that failure to comply with the order and to amend her petition as directed therein would result in this court recommending that the petition be dismissed for failing to demonstrate exhaustion.

Mendola has not filed an amended petition, a motion to stay, or any other response to the court's February 2, 2012, order (doc. no. 9). The court will therefore recommend that the petition be dismissed, unless Mendola complies with the February 2, 2012, order (doc. no. 9) within fourteen days of the date of this order or, within that time frame, files a motion to extend the deadline, demonstrating good cause to do so. The Clerk's office is directed to forward a copy of the February 2, 2012, order (doc. no. 9) to Mendola along with this order.

SO ORDERED.

A handwritten signature in black ink, appearing to be 'Landya McCafferty', written over a horizontal line.

Landya McCafferty  
United States Magistrate Judge

March 15, 2012

cc: Katherine Mendola, pro se

LBM:jba